IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.321 OF 2003

Joindre Capital Services Ltd. ... Petitioners

v/s

Kavita S. Surana ... Respondent

Mr Jayant Gaikwad i/b Mr Ajay Khandhar for Petitioners.

None for Respondent.

CORAM : D.K. DESHMUKH J.

DATE : 24TH OCTOBER 2005.

P.C. :-

1. By this petition, the petitioners challenge the award made by the Arbitral Tribunal of the National Stock Exchange. By the award made by the Arbitral Tribunal dated 26th July 2002, the claim made by the petitioners was rejected on the ground that the claim is time barred as the cause of action accrued on 13th October 2000, which according to the award, was the date of demand. It appears that the petitioners applied for correction of error in the award by their application dated 30th August 2002. In that application, the petitioners mentioned that in the award, the date of demand is wrongly mentioned as 13th October 2000, it should be 13th October 2001 and therefore, the reference made by them was within a period of six months from 13th October 2001. The rectification application was decided by the Arbitral Tribunal by its order dated 25th November 2002. Perusal of that order shows that the Arbitral Tribunal nowhere considered the grievance of the petitioners about the correct date of demand notice. In the order passed on the rectification application, the Arbitral Tribunal has held that the date of filing the arbitration application was 7th February 2002. If the period of limitation is counted from 13th October 2001, then the reference would be within a period of six

months from the date of demand notice. But the Arbitral Tribunal has not considered this aspect. Thus, there is an error apparent on the face of the award and therefore, the award is liable to be set aside. In the result therefore, petition succeeds and is allowed.

Petition is granted in terms of prayer clause (a).

. Parties to act on the copy of this order duly authenticated by the Associate / Personal Secretary as true copy.

. Certified copy expedited.